

REMARKS

Reconsideration and removal of the grounds for rejection are respectfully requested.

Claims 1-29 were in the application, claims 18, 22 and 24 have been amended, and claim 19 has been cancelled.

The amendment to claim 18 puts claim 19 in independent form, thus placing claim 18, and the claims depending therefrom in condition for allowance. Claim 22 has been amended to correct an incorrect reference to the main hopper. Entry of the amendment after final will reduce the issues for appeal and is respectfully requested.

Claims 10-17, 26-29 were rejected under 35 USC 102(b) as being anticipated by Satake et al., U.S. Patent no. 5,917,927.

To find anticipation, each and every element of the claim must be found in a single prior art reference. W.L. Gore & Associates, Inc. v. Garlock, Inc., 220, U.S.P.Q. 303 (Fed. Cir. 1983). Further, the reference must describe the applicant's claimed invention sufficiently to have placed a person of ordinary skill in the art in possession of the invention. In re Spada, 15 U.S.P.Q.2d 1655 (Fed. Cir. 1990). An anticipatory reference must be enabling, containing adequate descriptions for practicing the applicant's invention. Akzo N.V. v. Int'l Trade Comm., 1 U.S.P.Q.2d 1241 (Fed. Cir. 1986).

A finding of anticipation requires that the publication describe all of the elements of the claims, arranged as in the patented device. Shearing v. Iolab Corp., 975 F.2d 1541, 1544-45, 24 U.S.P.Q.2D (BNA) 1133, 1136 (Fed. Cir. 1992); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2D (BNA) 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 U.S.P.Q. (BNA) 669, 673 (Fed. Cir. 1984). C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir., 1998)

The present invention relates to a method for selecting articles and feeding them to blister packs or containers for filing, and an apparatus for carrying out the method.

Satake describes a grain inspection and analysis apparatus and method. Rice and other grains are inspected by a video camera system, and the data are processed to determined grain measurements, whether each grain is broken, and to obtain measures such as the percent broken by weight of a sample of rice. The broken content of a sample of rice

is a factor in determining the grade of a lot of rice from which the sample was taken, and therefore affects the lot price. The broken content also can be a measure used in the determination of the effectiveness and in the optimization of the rice milling process.

The apparatus takes a sample of grains or a stream of grains, and convey it for viewing by a video camera. The grains in the camera's view are illuminated by an illumination system. After the grain images have been acquired by the camera and electronics, the grain are then removed from the camera's viewing area to an output stream or hopper. There is no separation step performed

Rapid, accurate, and low-cost measurement of broken content can yield advancements in milling optimization and automated process control of a rice mill. However, such an inspection system has little relevance to a system for feeding a hopper with selected articles while having selection means through which the product flows for diverting non-selected items.

The present invention deals with an entirely different problem, removing improperly sized articles which can jam the feed system, and disrupt the filling process. Simply inspecting to see what percentage of product is broken would do nothing to prevent a jamming of the equipment, and the Satake apparatus has no solution for addressing this problem.

The examiner speculates that the brush of Satake is a selection means, yet there is no selection made...this merely removes the tested material from the system:

(Column 5)

"A grain removal assembly (32) is mounted to the frame (11) just above the tray and outside the viewing region of the camera near the end of the tray that is fed by the vibratory feeder assembly (29).

The grain removal assembly or sweeper (32) includes a motor (53) and a drive system that rotates a sweeper (54) which spans the width of the tray. The sweeper includes a number of finger-like protrusions or fingers (56) corresponding to the number and lateral positioning of the grooves or troughs (30) in the tray (31). The sweeper is rotated by the motor to one of two positions. In one position the fingers are horizontally oriented sufficiently away from the tray to allow the grains (all kind of grains, both non-defective grains and defective-grains) on the underlying tray to pass unimpaired.

The sweeper can then be rotated to the discharge or sweep position, where the fingers are vertically oriented and protrude into the underlying troughs of the tray without contacting it, thereby impeding movement of the

grain (all the kinds of grains, both non-defective grains and defective-grains) as the tray moves in its second direction.

The grains [all of the grain] are then swept off the tray through the hole (57) as the tray moves in its reverse direction (second direction), as portrayed in Fig. 5. The chute (33) allows the grains to fall through the hole (57) in the tray (31) into a container (34) (main hopper) that is positioned under the chute."

It should be emphasized that the grain removal assembly (32) and the horizontally oriented grooved tray (tapered channel) in Satake's apparatus only transport the articles (grain): they do not stop and remove defective articles while letting the non-defective articles pass through...they all move together.

No selection means are present in Satake, and claims 10-17 and 26-29 are not anticipated thereby.

Claims 1-2, 4, 6-9, 22-23 were rejected under 35 USC 103(a) as being unpatentable (obvious) over Satake.

To uphold a finding of obviousness, there must be some teaching suggestion or incentive for doing what the applicant has done.

However, in Satake there is no teaching or suggestion for:

- providing selecting means for allowing free passage of size-matching articles or of articles smaller than a nominal size of said size-matching articles for feeding the main hopper, while stopping size-non-matching articles whose dimension are bigger than said nominal size,
- feeding said main hopper with articles allowed free passage by said selecting means from said auxiliary hopper;
- removing, from said selecting means the size-non-matching articles stopper therein to maintain a regular article feeding flow; or for
- feeding blister packs or containers with the size-matching articles contained in the main hopper.

Consequently, claims 1-2, 4, 6-9, and 22-23 are not rendered obvious by Satake.

Claims 3, 5, 18, 20, 21 and 25 were rejected under 35 USC 103(a) as being obvious over Satake in view of Solomon.

In this analysis, it is important to note that "it is irrelevant in determining obviousness that all other aspects of the claimed invention are well known in a piecemeal manner, in the art, since virtually every patent can be described as a 'combination patent', or a 'combination of old elements'. The mere fact that the disclosure of teachings of the prior art can be retrospectively combined for purposes of evaluating the obviousness/non-obviousness issue does not make the combination obvious unless the art also suggested the desirability of the combination or the inventor's beneficial results of the advantage to be derived from the combined teaching. Fromson v. Advanced Offset Plate, Inc. 755 F. 2d 1549, 1556 (Fed. Cir. 1985).

While the Examiner alleged that Soloman teaches a tapered tubular guide in a vibratory feeder for discriminating between uneven size of articles, using an actuating hinged shutter/deflector operated by a pneumatic cylinder or rotating inner guide leg for making a selection, that is not correct.

With reference to figure 8, a delivery chute (48) is located at the opening (44) of the discharge station and is directed to deposit objects (16) into a container (50). The system (10) has a deflector (54) for deflecting objects back into hopper (20), to stop the filling operation.(col. 5, l. 30-34) The deflector (54) includes a plate (64) hinged at pin (66) against wall (38) or wall (38) may include a recess or cutout for receiving plate (64) so as to form an uninterrupted surface plate (64) is in its non-deflecting position.

The deflector (54) would be actuated whenever it is desired to stop the flow of objects (16) from passing through discharge opening (44), for example, when a certain count of objects has been reached. Again, this has nothing to do with directing selected objects to a main hopper while diverting non-selected, defective articles so they are removed from the filling process.


Soloman does not teach how to select between the fed articles to verify the integrity of the articles before being fed to a container. In fact, Soloman gives no hint in any part of the description or in any part of claims how to practice any kind of selection between the articles to distinguish intact articles from defective articles, or how to remove some articles but not others from a feeding channel.

Certainly, the combination of Satake with Soloman does not teach or suggest the applicants' invention to one skilled in the art, since neither even mentions a means for

making a selection between articles fed to a hopper. At best, one might find a way to determine what percentage of objects were broken, that were being fed using the Solomon filling system, without finding any way to prevent the filling of containers with such defective objects. Consequently, claims 3, 5, 18, 20, 21 and 25 are not rendered obvious by the proposed combination.

Based on the above amendment and remarks, favorable consideration and allowance of the application are respectfully requested. However should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application, the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,



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